

Applicant(s): P. Bonutti
Application No.: 10/685,117
Examiner: G. Jackson

Remarks

As an initial matter, Applicant's representative, Christopher Menke, appreciates the courtesies extended by the Examiner during a telephone conversation conducted September 6, 2005. These amendments and remarks presented herein reflect those discussed during the conversation, and Applicant respectfully submits that this Amendment satisfies the requirements of MPEP §713.04.

Claims 4-14, 16-18, and 20-35 are pending in this application. Claims 4, 13, 14, 16, 17, and 20 have been amended. Claims 34 and 35 have been added, and claims 1-3, 15, and 19 are canceled. Applicant believes the claim amendments and cancellations and the accompanying remarks herein serve to clarify the present invention and are independent of patentability. No new matter has been added.

Allowed Subject Matter

Applicant acknowledges with appreciation that claims 23-33 were indicated as being allowed in the Advisory Action. The Advisory Action also indicated that the 35 U.S.C. §101 rejection has been overcome by the amendments presented in the Response filed on July 29, 2005. Accordingly, and consistent with the above-mentioned conversation with the Examiner, claims 8-12 are allowed as well.

35 U.S.C. §103 Rejection

Claims 4-7 and 13-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,219,359 to McQuilkin *et al.* (hereinafter "McQuilkin"), U.S. Patent No. 4,823,794 to Pierce (hereinafter "Pierce"), and U.S. Patent No. 5,366,480 to Corriveau *et al.* (hereinafter "Corriveau"). In response, Applicant respectfully submits that this rejection should be withdrawn.

McQuilkin discloses a suture apparatus including an elongate length of suture and first and second pledgets each having a generally rectangular or oval plate of bio-compatible material.

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(col. 1, lns. 8-20). The pledgets are preferably made of Teflon but could be made from other materials including Dacron/Carbon. (col. 3, lns. 20-22).

Pierce discloses a surgical pledget having a suture entrance slit extending through the pledget from a side wall to a central suture location with the pledget and means for retaining a suture at the suture location. (abstract). The pledget includes a body formed from a conventional pledget material such as felt, polyurethane foam or Teflon. (col. 2, lns. 61-63).

Corriveau discloses a buttressing pledget manufactured from a synthetic elastomeric material. The elastomeric material can be nonporous, radiolucent, and/or a silicone rubber. The pledget can be made radiopaque by the addition of a suitable material, such as barium sulfate. The pledget can be combined with a surgical suture or ligature. (abstract).

Applicant contends that the teachings of the cited references do not disclose or suggest all the elements of the claimed invention. For example, with respect to independent claims 4 and 13,

- 1) the pledgets of the cited references are not bone plates,
- 2) the pledgets are not rigid, and
- 3) the cited references do not teach a suture and a fastener.

Accordingly, Applicant submits that independent claims 4 and 13 are patentable over the cited references. Based on at least their dependencies, Applicant submits that claims 5-7, 14, 16-18, and 20-22 are patentable as well.

New Claims

Claims 34 and 35 have been added to this application. Applicant submits that the new claims are fully supported by the specification, and based on their dependencies, Applicant submits that the new claims are patentable over the cited art.

Conclusion


In light of the foregoing remarks, this application is now in condition for allowance and early passage of this case to issue is respectfully requested. If any questions remain regarding

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this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

A fee of \$455 is believed to be due for a request of continued examination and one-month extension. This fee is being paid via Credit Card Payment Form PTO-2038 submitted herewith. Please charge any additional fees (or credit any overpayment of fees) to the Deposit Account of the undersigned, Account No. 503410 (Docket No. 782-A03-009-3).

Respectfully submitted,



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